

U.S. EPA
CERCLA SECTION 104 (e)
INFORMATION REQUEST

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Environmental
Cleanup Office

INFORMATION REQUEST RESPONSES

The Marine Salvage Consortium, Inc. dba
Fred Devine Diving & Salvage Co.

Section 1.0 Respondent Information

1. The Marine Salvage Consortium, Inc.
dba Fred Devine Diving & Salvage Co.
6211 N. Ensign Street
Portland, OR 97217
2.
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 - b. President
 - c. 6211 North Ensign Street, Portland, Oregon 97217
 - d. Telephone: (503) 283-5285, e-mail: devinesalv@msn.com,
Fax: (503) 286-2871
- a. LeAnn Bailey
 - b. Attorney at Law
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 - d. Telephone: (503) 232-8306, e-mail baileyle@aol.com
FAX (503) 23211561
- a. Todd A. Zilbert
 - b. Attorney at Law with the firm of Wood Tatum
 - c. 6915 S.W. Macadam Ave., Ste. 115, Portland, Oregon 97219
 - d. Telephone: (503) 224-5340, e-mail taz@woodtatum.com
FAX (503) 241-7235
3. No.

Section 2.0 Owner/Operator Information

4. The term "Property(ies)" in this Information Request is defined as including "personal Property within the Portland Harbor Investigative Area". Respondent interprets this to refer to personal Property in the nature of processing plants, waste treatment plants etc. as opposed to structures, portable equipment and all personal property located on real property within the Investigative Area. Based on this interpretation, Respondent is identifying, and responding with respect to, the following two "Properties":



Property No. 1: 6211 N. Ensign, Portland, Oregon 97217. Legal Description: That portion of Section 17, Township 1 North, Range 1 East, Willamette Meridian, in the County of Multnomah and State of Oregon, described as follows:

Beginning at the terminus of N. Basin Avenue as dedicated and accepted by the City of Portland by Ordinance No. 119402; thence South 52° 15' East, 401.10 feet along the centerline of N. Basin Avenue to the intersection of N. Basin Avenue and N. Ensign Avenue; thence South 37° 45' West 550.00 foot to the true point of beginning; thence North 52° 15' West, 858.23 feet; thence South 37° 45' West, 193.00 feet, more or less, to the mean low water line of Swan Island Lagoon; thence Southeasterly along the mean low water line of Swan Island Lagoon as follows:

South 17°00' East 93.00 feet; South 50°40' East 171.00 feet; South 24° 15' East 54.00 feet; South 46°45' East 80.00 feet; South 60°50' East 65.00 feet; South 49° 00' East 162.00 feet; South 46° 35' East 221.00 and South 39°48'35" East 40.03 feet; thence leaving said mean low water line North 37° 45' East 314.00 feet, more or less, to the true point of beginning. See Exhibit "A" to Document No. 1.

Property No. 2: State of Oregon owned submerged lands in the Swan Island Lagoon, a tributary of the Willamette River in Section 17, Township 1 North, Range 1 East, Willamette Meridian, Multnomah County, Oregon. Legal Description: Commencing at a point on the intersection of the Southeast line of Tax Lot 600 (Multnomah County Assessor's Map Number 1N1E17CA) and the line of Ordinary High Water on the right bank of the Swan Island Lagoon;

thence riverward along a line perpendicular to the thread of the stream to the line of Ordinary Low Water and the TRUE POINT OF BEGINNING

thence continuing riverward along said perpendicular line a distance of 50 feet;

thence downstream a distance of 600 feet, more or less, to a point which lies 75 feet riverward from the line of Ordinary Low Water as extended perpendicular to the thread of the stream from a point which is the intersection of the Northwest line of Tax Lot 600 (Multnomah County Assessor's Map Number 1N1E17CA) and the line of Ordinary High Water;

thence shoreward along said perpendicular line a distance of 75 feet to the line of Ordinary Low Water;

thence upstream along said line of Ordinary Low Water a distance of 600 feet, more or less, to the TRUE POINT OF BEGINNING, containing 0.861 acres, more or less". See Exhibit "A" to Document No. 2.

5. **Property No. 1:** 6211 N. Ensign, Portland, Oregon 97217: State of Oregon, Multnomah County Tax Lot 101, Section 17 1N 1E. Respondent leased a portion of the

Property from February 1, 1993 to the date Respondent purchased the Property, June 30, 1993, and has owned the Property continuously to present. Respondent conducts an off-site marine salvage and commercial diving business from the Property. Respondent provides moorage services for vessels and leases portions of the dock, warehouse space and office space to various tenants for both long-term and short-term durations. See Document Nos. 1 and 3.

Property No. 2: (See response to Request 4). Respondent entered into a lease commencing January 1, 1999 for a term of 15 years expiring December 31, 2013. Respondent uses the leasehold for moorage of vessels. See Document No. 2.

6. a. None.

b. See response to Request 13.k. regarding the prime contractor who performed construction services on Property No. 1 during the construction of Phase 3 of the warehouse.

c. See Document No. 4 regarding tenants at the Property. With respect to apparent business entities identified, if not included, Respondent does not know the legal form or whose state laws they were organized under. With respect to persons identified, Respondent does not know the present or last employer, job title or position. Respondent has supplied business addresses of persons and will note if a last known residence address and/or phone number are available and supply that information upon request by EPA. With respect to the documents identified, the author is Respondent and the addressee and/or recipient is the lessee or tenant.

d. See Document No. 5. Respondent does not believe the Port has exercised significant authority to control activities at the Property, but is providing a copy of the sewer easement and a preliminary title report.

e. None.

f. through h. None other than as set forth in this response.

i. See response to subpart d. above.

7. See responses to Requests 4 and 5 for legal descriptions.

Property No. 1: Leasehold interest from February 1, 1993 to June 30, 1993, pursuant to the Lease with Fred Devine Diving & Salvage, Inc. Fee simple ownership pursuant to Warranty Deed - Statutory Form, dated June 30, 1993, from BBD&R, Inc. See Document Nos. 1, 17 and 3. Respondent asserts a confidentiality claim with respect to Document No. 52, Agreement for Purchase and Sale of Business Assets.

Property No. 2: Leasehold interest pursuant to Submerged and Submersible Land Lease dated January 1, 1999, from the State of Oregon, Department of State Lands. See Document No. 2.

8. **Property No. 1:** Except as otherwise set forth in the responses hereto and as set forth below, Respondent had and has no knowledge of the "disposal or placement" of hazardous substances, wastes or materials on or at the Property.

i) Following is a quote from a letter dated May 10, 2006 from the Port of Portland addressed to J.H. Leitz, Fred Devine Diving & Salvage, enclosing "A Chance to Comment on Proposed Voluntary Agreement for Remedial Investigation, Source Control Measures and Feasibility Study: Former Portland Shipyard and Other Uplands Owned by the Port of Portland on the Swan Island Peninsula in Portland, Oregon":

"HIGHLIGHTS: Swan Island was purchased by the Port in 1921. The Swan Island Upland Facility has been used since then by the Port or others in a variety of industrial operations including, among other things, ship repair and manufacture; steel fabrication and storage; ship dismantling and scrapping; manufacture of wood products, oil tanks and other equipment; printing; storage of chemicals, paint, and roofing supplies; and operation of a service station. During various times of these historic operations, hazardous substances were released at and from the Facility into soil, groundwater and sediments at or adjacent to the Facility."

ii) The Port of Portland acquired Swan Island in 1921, rerouted the navigational channel from the east side of the Island to the west side, and connected the southeast end of the Island to the east bank of the river creating a peninsula (including Respondent's Property No. 1) from dredge spoils from the Willamette River.

(iii) The river bottom sediment has been exposed to industrial development since the turn of the century.

(iv) The City of Portland's M-1 storm sewer outfall, into which the western portion of Mock's Bottom drains, is located on the Port of Portland's property adjacent to and south of the Properties and drains into the Swan Island lagoon. See Document No. 48.

The contaminants deposited in the river sediment by the shipyard activities and the City's M-1 outfall could be construed as "placement" and were "deposited" or "placed" on the Properties prior to Respondent acquiring an interest in them and continuously thereafter. Similarly, the Port's use of "dredge spoils" in creating portions of Mock's Bottom could be construed as "disposal or placement" of materials, as it is defined for this Request to include "any matter". See Document No. 6, excerpt from

Appraisal Report dated May 7, 1986 prepared by Curtis, Slocum & Jordan, Inc., 733 SW 2nd Ave., Portland, Oregon 97214, prepared for Fred Devine Diving & Salvage, Inc., (same address as Respondent), and Document No. 25, pg. 22 "Sub-Surface Soil". Respondent did operate the Property after the above-described events took place.

With respect to the submerged lands portion of the Property, Respondent did operate the Property after the disposal or placement of hazardous substances, waste or materials by any person or force of nature deemed to have so disposed or placed such materials on the submerged lands. See response to this Request 8 above.

Property No. 2: See response to this Request 8 with respect to submerged lands.

9. **Property No. 1:** At the time Respondent acquired the Property, it did not undertake any investigations but the seller, BBD&R, Inc. did undertake two Phase I Environmental studies which Respondent is providing. See Document Nos. 7 and 8.

Property No. 2: See response to Request 8. No investigations were or have been conducted.

10. **Property No. 1**

The Port of Portland

131 NE Everett St., Portland, Oregon 97219

Port Authority organized under the laws of Oregon that owns and operates public facilities such as port terminals, airports, industrial parks etc.

- a. 1921 to 1973
- b. See documents referenced in Respondent's response to Request 8 and Document No. 9.
- c. See responses to Requests 8 and 9, although Respondent has no evidence that a hazardous substance, pollutant or contaminant was released or threatened to be released.

Fred Devine Diving & Salvage, Inc.

(Same address as Respondent)

Corporation organized under the laws of Oregon operating an off-site commercial diving and marine salvage business.

- a. September 11, 1973 to June 30, 1993
- b. See Document Nos. 9 and 1.
- c. None.

BBD&R, Inc. formerly known as Fred Devine Diving & Salvage, Inc.

(Same address as Respondent)

Corporation organized under the laws of Oregon operating an off-site commercial diving and marine salvage business.

- a. Same as a. above. Fred Devine Diving & Salvage, Inc. filed a name change on February 18, 1993. [Source: Oregon Secretary of State, Corporation Division website, business name search records.]
- b. See Document Nos. 9 and 1.
- c. None.

Property No. 2: The present owner is the State of Oregon Department of State Lands, formerly known as the Division of State Lands. Respondent is not aware of any prior owners.

11. Other than owners identified in Respondent's response to Request 10, who may have leased the Properties to others, Respondent is not aware of any other operators or lessors.

12. Included in response to Request 6.

Section 3.0 Description of Each Property

13. Property No. 1

- a. See response to Request 4.
- b. See response to subpart i. below, Document No. 10 and Document No. 20, City of Portland Water Bureau, Northwest Natural and Portland General Electric drawings.
- c. See Document No. 10, response to subpart i. below and drawings referenced in Document 20.

Sprinkler system in landscaped areas. Exact location unknown and no diagram available.

d. Respondent interprets this Request as Requesting "footprint" information about surface structure buildings and is supplying drawings containing that information. See Document No. 10 and the drawings referenced in Document No. 20. See also, response to Request 28.

Two portable above ground fuel storage tanks, normally used on job sites, located on the Property when purchased by Respondent that Respondent never filled nor used. To the best of Respondent's recollection, the tanks were given to a contractor who transported the tanks from the Property. See Document No. 10.

e. See Document No. 20 and the dock construction diagrams by Lee Engineering referenced therein. See response to Request 28.

- f. None.
- g. See response to Request 21."Waste" 2. No other treatment or control devices.
- h. None.
- i. See Document No. 20 and, Document No. 23, Figure 5 and Document No. 11. No septic tanks ever have been installed on the Property to Respondent's knowledge. See response to Request 13.k.(ii), (iv) and (v).
- j. Three Underground Storage Tanks. When Property No. 1 was sold to Respondent, the sellers of the Property, BBD&R, Inc., were responsible for removal of three USTs located to the south of the warehouse building on the Property, which were properly decommissioned, removed and disposed of. See Document No. 8, pg. 3 and Appendix B.
- k. See response to Request 8 regarding creation of Property No. 1 by the Port of Portland from dredge spoils.
- (i) Excavation of an unknown quantity of sand and silt with clamshell bucket on barge commencing in May of 1974 through 1977 pursuant to Conditional Use Permit No. CU31-74, issued by the City of Portland. See Document No. 12. and Permit No. 071-OYA-1-001362 issued by the U.S. Army Corps of Engineers, (the "Corps"), effective June 1974 through June 1977. See Document No. 13. This Permit also allowed the placement of 6,000 cu. yds. of riprap bank protection.
- (ii) Completion of Construction of 7,000 sq. ft. wood construction 2-story office building in December 1974, including paving, curbing and landscaping. The construction involved fill and excavation activity pursuant to Corp. Permit No. 071-OYA-2-003005 effective November 1978 through November 1983is. See Document No. 14. Installation of storm sewer system, catch basin 6 and sanitary sewer lines, December 1973 to August of 1974. See Document No. 20, and diagrams by Sunset Engineering contained therein.
- (iii) Chain link fencing installed September of 1974. Document No. 15.
- (iv) Completion of construction of 7,500 sq. ft. steel constructed shop and warehouse building in August of 1976, including excavation, paving, curbing and landscaping. Extension of sanitary sewer line to structure and storm sewer lines to catch basins 4 and 5. See Document No. 20, and drawings by Harder Mechanical dated 1976 contained therein.

(v) Completion of construction of 7,000 sq. ft. steel constructed shop and warehouse contiguous to existing warehouse in December if 1977, including excavation, land fill, paving, curbing and landscaping. Extension of sanitary sewer line to structure and storm sewer line to catch basin 3. See Document No. 20, Harder Mechanical drawings dated 1977 contained therein.

(vi) Shore-side bank grading to straighten bank line, 1979. See Document No. 16.

(vii) Installation of up to 2,000 cubic yds. of riprap for bank stabilization in March and April of 1984, pursuant to an extension of Permit No. 071-YU-2-003005 See Document No. 14 Quotations from Coast Marine Construction, Inc. dated February 17, 1984 and Michael Mark Limited, dated February 16, 1984, to install rip-rap and shape bank, authored by same, recipient Respondent.

(viii) Installation of four 5-pile dolphins and six single pile dolphins along harbor line adjacent to Property used for mooring vessels an stabilization of approximately up to 220 linear feet of float pursuant to Corps Permit No. 071-OYA-1-002357, effective February 1977 to February 1980. See Document No. 18.

(ix) Construction of dock and floating walkways from February to August of 1984, pursuant to Permit No. 071-OYA-1-005233 issued by the Corps, effective July 1984 through July 1989. See Document No. 19. This permit also allowed maintenance dredging of up to 1,000 cu. yds. per year, and installation of four 5-pile dolphins, but Respondent has no further documentation regarding whether these are the same piling referenced in permit number 071-OYA-002357 above or additional piling. See Document No. 18. See response to Request 13(e). This construction included excavation of up to 1,000 cubic yds. of sand and silt pursuant to permit number 071-OYA-1-003005 issued by the Corps, effective January 1984 to November 1985 and installation of up to 2,000 cu. yds. of riprap as noted above. This same permit allowed maintenance dredging of up to 1,000 cu. yds. per year, but Respondent has no knowledge or documentation to confirm whether or not this occurred. See Document No.14.

(x) Construction of 10,500 sq. ft. warehouse in 1995. See response to Request 28, including grading paving, curbing and landscaping. See Document No. 20 and drawings by Francis Berg contained therein.

(xi) Replacement of roof on office building with metal roofing in October of 2001. See Document No. 20. and drawings by Francis Berg contained therein.

There are no planned additions, demolitions or other changes to the Property.

l. See Document No. 20 and maps and drawings contained in the Documents identified in response to Request 15.

m. See aerial photos contained in the Documents identified in response to Request 15.

Property No. 2

a. See response to Request 4.

b. through j. None.

k. Other than as set forth in the responses to Request Nos. 8 and 9, none known.

14. Property No. 1

See Document No.2, Exhibit A.

Property No. 2

Not applicable as the Property is a portion of the State of Oregon owned submerged lands in the Willamette River.

15. See Document Nos. 7, 8 and 21 through 28.

16. **Property Nos. 1 and 2:** Respondent does not interpret the Corps' dredging activities described in response to Request No. 8 as involving "solid waste" as that term is defined in 42 U.S.C. 6903 (27) and responds none known.

Property No. 2: None known.

17. **Properties Nos. 1 and 2:** Not applicable.

18. a. None.

b. Not applicable.

c. Not applicable.

- d. Not applicable.
- e. No outfalls are located within the boundaries of the Property.

Property No. 2

- a. through e. Not applicable.

19. Property No. 1

See Document Nos. 23 through 28. With respect to best management practices and maintenance plans, see Document No. 26, pgs. 8 through 10, Document No. 27, pgs. 8 through 11 and Document 29. Respondent is unclear whether "any . . . Spill Plans" is limited to those involving stormwater, and therefore refers EPA to Document No.31, pages 25 through 31.

Property No. 2

Not applicable.

Section 4.0 Respondent's Operational Activities

20. Property No. 1

Respondent's Primary operations and activities at the Property are as follows:

- (i) Administrative headquarters for the Respondent's commercial diving and off-site heavy marine salvage operations, i.e. "Exxon Valdez";
- (ii) Maintenance, repair and storage of highly specialized emergency response ship salvage equipment used to refloat stranded or sunk or capsized vessels and related support activities, including extensive pollution control equipment and supplies;
- (iii) Property management relating to leasing office, warehouse, shop, yard and moorage to tenants;
- (iv) Moorage of Respondent's diving and salvage support vessels. Moorage rental for vessels.

With respect to: (i) changes of operations or business activities over time, see response to Request 31, (ii) waste disposal, see response to Request 21, (iii) construction, see response to Request 13 and (iv) surveying, see response to Request 13.1.

Other than as set forth in the response to this Request 20 and the responses to other Requests herein, Respondent is not aware of any other endeavors or ventures at the Property related to the use and development of the Property.

Financing Arrangements

In each of the financing arrangements described below, the author was the financial institution listed and the recipient was Respondent.

June 30, 1993, Promissory note secured by a Trust Deed and Assignment of Rents, between Respondent, BBD&R, Inc. and First American Title Insurance Company as Trustee, to finance purchase of the Property.

April 2, 1995, renewed annually, Promissory Note and Commercial Guaranty between Respondent and Northwest National Bank for a line of credit, loan number 613529, used in the conduct of Respondent's business at the Property and in Respondent's off-site business activities.

April 2, 1996, Promissory Note secured by a Deed of Trust and Assignment of Rents between Respondent, Northwest National Bank and Terry C. Hauck as Trustee, loan number 614867, to finance construction of third phase of the warehouse.

March 1999, U.S. Bank N.A. acquired Northwest National Bank and both loans. U.S. Bank N.A. Commercial Loan Invoice sent to Respondent, No. 9910055622 dated April 5, 1999.

July 15, 2000, Promissory Note and Commercial Guaranty between Respondent and U.S. Bank NA., renewed annually, loan number 1206-26, line of credit, used in the conduct of Respondent's business at the Property and in Respondent's off-site business activities.

August 1, 2001, Promissory Note and Commercial Security Agreement between Respondent and U.S. Bank N.A., loan number 1206-18/26, same line of credit. See above.

September 28, 2001, refinance with U.S. National Bank, Promissory Note, secured by a Deed of Trust, between Respondent, U.S. Bank and U.S. Bank Trust Company N.A., as Trustee, loan number 1206-, to re-finance and pay-off balance of promissory note to BBD&R, Inc., equipment loan and to finance re-roofing of office building.

March 5, 2003, Promissory Note and Security Agreement between Respondent and Riverview Community Bank, loan number 8001, line of credit, used in the conduct of Respondent's business at the Property and in Respondent's off-site business activities .

June 10, 2003, Commercial Loan Agreement and Promissory Note secured by a Deed of Trust between Respondent, Riverview Community Bank and UPF, Inc as Trustee, loan number 9001, to refinance U.S. Bank loans.

Property No. 2: Moorage of vessels and related activities. See response to Request 22 Activities Conducted on or Adjacent to the Willamette River.

21. Materials Used in the Conduct of Respondent's Business

The American Heritage Dictionary defines "material" as the substance or substances out of which a thing is or may be constructed". The Request defines "materials" as raw materials, commercial products, etc. Respondent's primary business is off-site service oriented and does not involve the use of "raw materials" in the manufacture or production of products or waste. Given these definitions of "materials", Respondent interprets this Request to pertain to raw materials used in manufacturing and production and waste as a result of such an operation, or what typically are referred to as "through-put" or "out-put" activities.

a. Respondent uses a small quantity of raw materials such as plywood (approximately 2 doz. sheets annually), steel (approximately 3 tons annually) and aluminum (approximately 500 lbs. annually). Respondent uses paint, lubricants, grease and similar products in the repair and maintenance of its equipment, the spent material from which is properly disposed of as noted elsewhere in the responses to this Request.

Raw Materials

b. Solids - Plywood composed of wood products and glue; steel composed of various alloys and aluminum composed of various alloys. Color: Plywood - tan; metals-metal. Odor: Plywood-wood smell; metals - none.

c. Purchased from vendors and used to fabricate hull patches and specialized marine salvage devices for use off site. Stored in warehouse. Plywood disposed of as solid waste and metal transported to scrap yard for recycling.

d. See a. and c. above.

Paints, Lubricants and Grease

a. Liquid. Paint: , color various and odor, the smell of paint, approximately 25 gallons annually. Allowed to dry and disposed of as solid waste. Lubricants and Grease: petroleum or vegetable oil based, color varies. Stored and disposed of as noted in response to 21. Waste Item 3. Recyclable Waste Oil Tank.

c. Purchased from various vendors.

d. See a. above.

In addition to the raw materials, paints and lubricants noted above, general description of the materials used in Respondent's operations or business activities at the Property includes supplies related to office, administrative and property management

operations and parts, tools and supplies used to maintain and repair vessel salvage and commercial diving equipment. Respondent purchases these materials from numerous vendors who sell the materials.

Waste

Respondent interprets Request 21 as Requesting information duplicative of Request 26, in terms of "use", "store" "treat", "dispose" or "otherwise handle" waste and Request 36 regarding "physical state, nature and composition and volume of waste". Respondent is providing the answers for subsections a. through d. of Request 21 with respect to how waste transported off the Property for disposal is handled and stored as requested in Request 26 and in response to the information requested in Request 36. Respondent interprets the Request such that the waste materials were not "purchased" by Respondent. For the documents relied on in answering this request, please refer to Request No. 40.

Property No. 1

1. Municipal Solid Waste

a. Solid waste.

Quantity varies:

02/93 through 09/95, 1 dumpbox, quantity unknown, occasional extra yds. and occasional 40 yd. dumpster.

10/95 through 07/98, 1 ea. 4 cubic yd. dumpbox weekly with occasional 10 yd. dumpster.

08/98 through 13/99, 1 ea. 4 cubic yd. dumpbox weekly, 1 ea. 90 gal. recycle bin for glass and 1 ea. cardboard cage.

01/00 through 13/01, 1 ea. 4 cubic yd. dumpbox weekly, 90 gal. recycle bin for glass and 1 ea. 4 yd. cardboard cage with occasional 10 and 30 yd. dumpsters.

01/02 through 02/03, 1 ea. 4 cubic yd. dumpbox weekly, 90 gal. recycle bin for glass and 1 ea. 4 yd. cardboard cage with occasional 10 and 30 yd. dumpsters.

03/03 through 09/05, 1 ea., 4 cubic yd. dumpbox weekly, 90 gal. recycle bin for glass and 1 ea. 4 yd. cardboard cage with occasional 10 and 30 yd. dumpsters.

10/05 through 03/08, 1 ea. 6 cubic yd. dumpbox weekly, 4 ea. 96 gal. recycle bins for glass and 1 ea. 5yd. cardboard cage with occasional 10 and 30 yd. dumpsters.

b. Solid, chemical composition unknown. Color and odor vary and Respondent cannot generalize, other than that of municipal solid waste.

c. Solid waste is created in the conduct of Respondent's business activities on the Property, as described in Request 21; stored in the containers listed in subpart a.; and transferred by a professional waste disposal service for off-site disposal to locations unknown to Respondent.

d. See response to subpart a. and c.

2. Oil-Water-Dirt Separator

a. Rinsewater, approximately 300 gallons annually; oil approximately two quarts annually; and a small amount of dirt.

b. A small component of solid dirt or sludge and liquid petroleum hydrocarbons, mostly water. Sludge: color brown or black with a slight odor of hydrocarbons. Liquid petroleum hydrocarbons: color brown or black and odor of petroleum hydrocarbons. Water: color clear, no significant odor.

c. Equipment, used in Respondent's off site vessel salvage and commercial diving services business, is steam cleaned with high-pressure steam cleaner which uses comparatively little water, over equipment washing drain in steam cleaning room. The liquid drains through pipes into the oily-water-dirt separator installed under the ground immediately outside the warehouse. The separator is composed of three chambers that function to separate the petroleum hydrocarbons from the water with absorbent pads placed on top to absorb the petroleum hydrocarbons. After decanting clear, the water is pumped into the sanitary sewer system. The dirt or sludge, which is solid, occasionally are scraped from the chamber or removed by a commercial vacuum truck approximately once per year, since February of 1993, for disposal as solid waste. The absorbent pads are disposed of as solid waste. Dirt is removed from the trench drain in the warehouse prior to entering the separator several times annually and disposed of as solid waste.

d. See responses to subparts a. and c.

3. Recyclable Waste Oil Tank - Above Ground in Shop See Document No. 10

a. Waste oil, stored in tank. Tank size 300 gallons.

b. Liquid petroleum hydrocarbon products. Color brown or black and odor of petroleum.

c. The oil is used in Respondent's equipment in the conduct of its off-site vessel salvage and commercial diving services business generally. A commercial recycling service empties the tank, 100 to 210 gallons, periodically as needed, approximately once per year since February of 1993.

d. See responses to subparts a. and c.

4. Greymills Clean-O-Matic Parts Washer - Above Ground in Shop See Document No. 10.

- a. Parts washing fluid, approximately 45 gallons every 13 weeks.
- b. Liquid spent petroleum naptha. Color clear and odor of naptha.
- c. Parts are used in Respondent's equipment in the conduct of its vessel salvage and commercial diving services business generally. Parts are washed in washer and fluid remains in washer. A commercial cleaning service recycles the fluid from the washer and replaces the fluid approximately every 13 weeks, since February of 1993.
- d. See responses to subparts a. and c.

5. Waste Anti-Freeze Drum See Document No. 10

- a. Anti-Freeze in a 55 gallon drum.
- b. Liquid, on information and belief, glycol. Color green or yellow and odor of glycol.
- c. Anti-freeze used in Respondent's equipment in the conduct of its off site vessel salvage and commercial diving services business generally. Anti-freeze is drained into a pan and transferred to a drum. A commercial recycling service pumps the contents of the drum into a truck for disposal periodically as needed, approximately twice annually, since February of 1993.
- d. See responses to subparts a. and c.

6. Oil Filter Drum

- a. Spent oil filters are stored in a 55 gallon drum.
- b. Liquid petroleum Products. Color of spent filters is generally brownish to black and odor of petroleum hydrocarbons.
- c. Filters used on motor vehicles and equipment in the conduct of Respondent's off site vessel salvage and commercial diving services business generally. A commercial recycling service empties the drum periodically as needed, less than once annually, for disposal.
- d. See responses to subparts a. and c.

7. Slag from Welding

- a. Slag from welding

- b. Steel, metal, no odor, color-metal.
- c. Created from welding, swept up and disposed of as solid waste.
- d. Quantity approximately 20 lbs. annually disposed of as municipal solid waste.

8. Storm Water Catch Basins

- a. Storm water, quantity unknown and dependent on time of year and weather conditions.
- b. Liquids and solids. For additional information, see Document No. 25, pages 11-13 and Document 28, pages 4-5. Liquids, generally clear with no significant odor. Solids, color of decomposed organic material, generally brown or black with an odor of decomposed organic material.
- c. Precipitation, surface water on pavement, roof drains and particulates in the air, including wind-blown debris from business on neighboring property. Previously, vehicle washing, which practice ceased in 2001. The catch basins drain into the City of Portland storm sewer system. Respondent cleans the catch basins and removes the solids approximately four times annually. There is a very small amount of solids at any one cleaning and it is stored in a 55 gallon drum for eventual disposal by a commercial waste disposal company. Occasionally, a commercial service cleans the catch basin with a vacuum truck.

- d. See responses to subparts a. and c.

9. Scrap Metal

- a. Metal varying in size, type and quantity, averaging 8.6 tons annually.
- b. Solid, metal.
- c. Resulting from the conduct of Respondent's off-site vessel salvage and commercial diving services business generally as described herein. Hauled to scrap metal recycling facilities periodically, as needed
- d. See responses to subparts a. and c.

10. Tenant Waste Removed From Property

[Bankrupt tenant abandoned materials in previously leased warehouse.]

a. Waste paint, 5-55 gal. barrels, 1,540 lbs. and waste flammable liquid, 1 barrel, 190 lbs.

b. Paint: Liquid, further chemical composition unknown to Respondent including color and odor.

Flammable Liquid, further chemical composition unknown to Respondent including color and odor.

c. Re-packed in 55 gal. drums by a professional environmental services firm and transported from the Property by professional waste transporters for disposal off-site.

11. Spent Parts

a. Various spent machinery and equipment parts, approximately 3 to 4 tons annually.

b. Solid and metallic characteristics. Color is various metal colors and odor is that of metal in general.

c. Parts replaced during maintenance of equipment used in the conduct of Respondent's off-site vessel salvage and commercial diving services business generally.

d. See response to subpart a.

12. Construction Debris

The prime contractor, Fox & Associates, was responsible for removing construction debris resulting from construction of the third phase of the warehouse:

a. Various, metal, wood, plastics and other debris, as well as, paint products resulting from construction of the warehouse.

b. Solids and liquids, chemical composition varied. Transported to the site by various vendors and subcontractors of the prime contractor, incorporated in the building and surrounding improvements and removed from the site by same.

c. Purchased for and used in the construction of phase 3 of the warehouse by a third party contractor and its subcontractors.

d. The quantity of this material is not known by Respondent.

Spent Batteries Cores

a. Spent vehicle and vessel batteries, on the average one to five batteries transported by Respondent to various auto parts supply stores per year since 1993.

b. Solid, alkaline, the exact chemical composition of the batteries is not known by Respondent.

c. Purchased from various vendors, used in autos, equipment and vessels, and returned to vendors for credit toward purchase of new batteries.

d. See response to subpart a. above.

21.e. Pacific Coast Environmental

Respondent interprets "any information pertaining to the operation of Pacific Coast Environmental, Inc.", to relate to Request 21, which states: ". . . did **you** ever use, purchase, generate, store, treat, dispose or otherwise handle waste or material at the Properties". See Document No. 7, pg. 6 regarding use by PCE of above ground portable tanks to store material from underground tanks and waste wash water and the statement they did not store hazardous waste at the site. See also Document No.7, Appendix D and Document 32 regarding PCE's operations. Other than the one reported release of sheen into the Willamette River, see 22.(1) in response to Request 22, Respondent has no specific information regarding PCE's handling of waste and material on or at the Property.

Property No. 2: See 22 (2) in response to Request No. 22

22. Activities Conducted on or Adjacent to the Willamette River

Property No. 1 is located adjacent to the Willamette River, and Property No. 2 is submerged lands in the river. See response to Request 21. General activities conducted on both Properties over or on the Willamette River include moorage of vessels; loading of stores, equipment, crew and passengers; refueling of vessels; occasional underwater repair of propellers and installation and removal of temporary cofferdams, (patches) on vessels by divers and use of materials and tools to do so. Tools and ordinary non hazardous materials occasionally, accidentally come to be located in the Willamette River, which are recovered. Other than as stated above, and except as otherwise stated in the responses hereto, Respondent is not aware of hazardous substances, waste(s) or materials that came to be located in the Willamette River as a result of activities at the Properties.

Two known incidents of a release or potential release of materials include the following:

(1) March 8, 1995 - Tenant PCE was unloading a response vessel and personnel placed a bag of used absorbent pads on the walkway. Rain water washed over the bag, which was split, causing a slight sheen to be deposited in the river. [(1) U.S. EPA Emergency Response Notification System maintained by the National Response

Center, (NRC) Incident Report # 282547, available on the internet at www.uscg.mil; U.S. Government entity and purpose is to be central information point for federal agencies to access release information. (2) U.S. EPA Envirofacts Warehouse-RCRAINFO available on the internet at www.epa.gov/envir/; U.S. Government agency, see response to Request No. 50. (3) Oregon Department of Environmental Quality, ("DEQ") Environmental Cleanup Site Information (ECSI) Database available on the internet at www.deq.state.or.us/lg/ecsi/ecsi.htm/, state agency. See response to Request No. 50.

(2) June, 1996 - FDD&S employees were lifting a pallet of 5 gallon paint pails, the pallet failed and the paint pails landed on the deck of a barge. One 5 gallon pail of paint landed in the river, which did not breach or open and did not release any paint into the Willamette River. The pail was retrieved from the river by one of Respondent's divers. Absorbent boom was placed around the barge and the paint was recovered from the deck of the barge, placed in containers and disposed of by Foss Environmental, a professional environmental disposal company. [(1) NRC Incident Report # 349208, see (1) above. (2) EPA Envirofacts Warehouse, see (1) above. (3) ODEQ ECSI, see (1) above.]

23. **Property No. 1:** See responses to Requests 20 and 21.

Property No. 2: No facility is located within the Leasehold area.

24. See responses to Requests 20, 22 and 23.

25. Pesticides

Property No. 1

Application of pesticides only applies to the area surrounding the office building, not other structures located on, nor other areas of, the Property. See Document Nos. 33 through 36.

A&A Pest Control applied pesticide for the following period:

July 1990 through December 1991, bi-monthly pest control service to control carpenter ants and other insects, brand name and quantity unknown.

Terminix Termite and Pest Control applied the following pesticides for the following periods:

May 1994 through December 1999, Conquer (Esfenvalerate) and Tempo 20WP (Cyfluthrin), one of which was used monthly to control ants, 52 to 72 oz; Drione Dust (Silica/Pyrethrin) 48 oz May 1994 and BP 300 (pesticide unknown) 8 oz August 1995, to control spiders; Abemecum, (brand unknown) used in July of 1999, 3 oz. to control ants.

January 1999 through February 2003, Tempo 21WP or PT Cy-Kick CS (Cyfluthrin) pesticide to control carpenter ants, periodically, approximately every one to three months, approximately 36 ounces to 1/2 gallon per application. Applied again in October, 2005, 48 oz.

December 1998 through March, 2008, Demand CS (Lambda-cyhalothrin) pesticide to control ants and other insects, approximately every 1 to 3 months, quantities varied, e.g. 64 ounces to 1/2 gallon.

October, 2003 through October, 2006, Ascend Fire Ant Bait (Abamectin B1), to control ants and other insects, periodically, approximately annually, 3 to 4 oz.

January 6, 2005 through June 2005, Max Force FG Insect Bait (Hydramethylnon) to control ants and other insects, 5 oz.

February, 2005 and April, 2005, Zone Defense Dust (Orthoboric Acid) to control ants and other insects, 4 oz.

September, 2000 to May, 2001, FicamWP (Bendiocarb), to control ants and other insects, 74 oz., three applications

January 2007 through April 2007, DeltaGuard G (Deltamethrin), to control ants, and other insects, 6 to 8oz. monthly.

March 2007, Generation Mini-Blocks Bait (Difethialone), to control ants and other insects, quantity unknown.

Property No. 2 None

Herbicides

Property No. 1

To comply with landscaping requirements imposed by the City of Portland, Bureau of Development Services when Respondent constructed phase 3 of the warehouse, Respondent has used Dow AgroSciences Rodeo to control blackberry vines, approximately once annually since 1995. Rodeo with glyphosate is approved by NOAA Fisheries for use within the 100 year flood plain of rivers. Respondent also removes the blackberry vines on the bank by the Willamette River by digging-up the plants, which is more effective than herbicide. Material Safety Data Sheet, Dow AgroSciences LLC, March 23, 2004, Indianapolis, IN 46268, obtained from internet and document produced by the Nature Conservancy evolved from a workshop conducted in February of 2002, written by Jonathan Soll, The Nature Conservancy, Version current as of 03/30/04, Obtained from the U.C. Davis website.

Property No. 2

26. See responses to Request 21.

27. No.

28. Property No. 1

Docks and Walkways. Heavy timber trestle "T" shaped dock with floating walks secured to dolphins or piling. Total square footage, including the approach ramps 5,385 sq. ft. The usable portion of the dock is 30' wide with a length along the water of 130'. The floating walkways at water level are approximately 240' in length to the north and 140' to the south, and are accessed by ramps from the dock. A 30 by 56 ft. covered floating structure is located at the north end of the main dock. See Document 20 and drawings of the dock by Lee Engineering contained therein.

Warehouse. Consists of a 14,000 sq. ft. south portion with several divided areas used for shop and storage and a 10,500 sq. ft. north portion. Both buildings have concrete foundations with four ft. concrete stem walls and are pre-engineered steel buildings. The dimensions for the south portion are 175' by 50' and 75' by 70', and it contains a 120 sq. ft. mezzanine and a second 300 sq. ft. mezzanine used for parts storage. The dimensions for the north portion are 150' by 70' and it contains a 2,000 sq. ft. mezzanine office space. See Document 20 and drawings of the warehouse and warehouse expansion in 1976 and 1977 by Dennis L. Robertson, P.E., Fred Devine Diving & Salvage, Inc. and Harder Mechanical Contractors contained therein.

Property No. 2. There are no plants, buildings or structures on Property No. 2, which is used strictly for moorage of vessels.

29. Respondent is not in the business of manufacturing any goods or producing any products from raw materials, rather it is engaged in off-site services that are not readily diagrammed. As noted in the responses to Request 21, Respondent's on-site activities consist of equipment storage and maintenance, administrative offices for business, property management and vessel moorage.

30. Respondent is unclear as to the meaning of "institutional processes", and interprets this Request as duplicative of Request 20: "Describe the nature of your operations". Respondent believes it has been responsive to this Request 30 in its answer to Response No. 20 and as set forth below.

Property No. 1

- a. February 1, 1993 and continue to date.
- b. See response to Request 20. Respondent does not undertake industrial, chemical or as far as it knows, institutional processes on the Property.

Property No. 2

- a. Leasehold effective January 1, 1999 for 15 years.
- b. See response to Request 20. Respondent does not undertake industrial, chemical or, as far as it knows, institutional processes on the Property.

31. The only significant changes in the nature or size of Respondent's business have been a reduction of personnel, an increase in Respondent's moorage rental business since 2005 and an increase in the tenant rental business with the completion of construction of the third phase of the warehouse in 1996.

32. See response to Request 29.

33. See Document No. 37.

34. **Property No. 1**

- a. See response to Request 21 Clean-O-Matic Parts Washer - Above Ground in Shop and Oil-Water-Dirt Separator.
- b. See response to Request 21 Clean-O-Matic Parts Washer - Above Ground in Shop and Oil-Water-Dirt Separator.
- c. Respondent's maintenance of equipment and machinery is conducted in its warehouse shop. There is no record of any spill. If there were any leaks, drips or splashes, they would have involved small quantities that were cleaned-up as set forth in subpart f. below.
- d. Any spill noted in c. above would have been wiped-up with absorbent pads or mopped-up, using a biodegradable cleaner or a granulated absorbent sweep.
- e. See response to d. above.
- f. Mop water is disposed of in the sanitary sewer and absorbent pads and other materials are disposed of with professional disposal companies. See response to Request 21.
- g.
 - i. Diesel tanks are not cleaned on the Property.
 - ii. See response to Request 21 and Document 10. No permits.

Property No. 2: Respondent does not clean or maintain equipment or machinery as part of activities involved in operations on Property 2.

35. **Property No. 1**

See response to Request 34. The methods outlined there are employed with regard to leaks, drips or splashes occurring during Respondent's operations at the Properties. Respondent interprets this Request to request methods used to clean up spills at the Properties and not Respondent's off-site business operations. See also Document No. 31, pages 25 through 30.

Property No. 2

A portion of Respondent's off-site business involves oil and contaminant recovery and Respondent maintains significant inventories of absorbent pads, oil boom, absorbent boom and rope mop machines, which could be used or deployed for a spill at the Properties. Packaged spill control kits are maintained on the Property and on Respondent's larger vessels.

36. See response to Request 21.

37. See Document Nos. 10. Document 10 does not depict scrap metal or building construction waste discussed in Respondent's response to Request 21, as Respondent does not believe these lend themselves to schematic diagram. Respondent has described how these wastes are/were stored, treated, disposed of or otherwise handled in Respondent's operations at the Property in its response to Request 21.

38. Respondent will provide the contact information the individual listed below upon request by EPA., as noted in Respondent's cover letter to this Response. Mr. Leitz possesses information regarding Respondent's activities described in Respondent's response to Request 21.

Julius H. Leitz, see response to Request 2, 1993 to present, no supervisor. Duties include managing business, bidding contracts, performing off-site salvage services as a salvage master, design of specialty salvage equipment, and general supervisory duties of office staff and employees.

39. See response to Request 21 regarding each type of waste. Respondent was unable to locate any "contracts or agreements". In its response to Request 40, Respondent is providing invoices, checks and manifests evidencing arrangements for disposal, treatment, storage, recycling, or sale of same.

40. Respondent interprets subpart (b) "Respondent's operations" to mean those involving the Property, not its off-site activities.

a. through e. See Document No. 38. Respondent does not know the legal form of or the state under whose laws the Waste Carriers or ultimate disposal locations were or are organized and therefore has not provided that information. The Waste Carriers are in the business of transporting waste and the disposal facilities of disposing of waste.

f. See Document Nos. 39 through 47.

g. Respondent is not certain whether "previous question" refers to Request 39, or to Request 40.f., however, Respondent has provided in response to this Request 40 all such documents supporting the basis for its answer to either of those questions.

41. See response to Request 21.2. Oil-Water-Dirt Separator. Respondent does not otherwise dispose of waste in drains except that into the sanitary sewer system as noted in its response to Request 21.
42. City of Portland sanitary and storm sewer systems. See response to Request 40.
43. See response to Request 21.2., Oil-Water-Dirt Separator.
44. Respondent occasionally maintains, repairs and paints its vessels in its warehouse shop. On one occasion, Respondent painted the deck of its crane barge with Rodda brand equipment enamel using brushes and rollers. No spray painting is conducted over water. On one occasion, Respondent hired a licensed, professional tank cleaner to clean the tanks of the floating structure at the north end of the main dock identified in Respondent's response to Request No. 28.
45. See response to Request 21 regarding materials used and wastes disposed of.
46. See response to Request 21 regarding records.
47. None known with respect to activity conducted on the Properties. See response to Request 68.
48. Not applicable.
49. Not applicable.

Section 5.0 Regulatory Information

Respondent interprets the use of "owner or operator" in this Section 5.0 to refer to "Respondent" or "you" as those terms are defined for purposes of this request.

50. Property No. 1:

Respondent interprets this Request to include those public agencies/departments that dealt with health and safety issues and environmental concerns/or just environmental concerns as this definition was clarified by EPA in Ms. Cora's April 8, 2008 correspondence to Ms. Patty Dost. Respondent is including several private entities that Respondent interacts with regarding health and safety and/or environmental concerns. Respondent does not interpret the Request to be limited to actual incidents reported, but rather *all* interactions. Without researching each agency/company, Respondent does not know the entity legal form and therefore has not included it in its response to identify them.

U. S. Environmental Protection Agency
Region X
1200 Sixth Ave.

Seattle, WA 98101

[Responsible for ensuring environmental protection federally and delegates certain environmental compliance programs to the state.]

U.S. Department of Homeland Security

United States Coast Guard

Sector Portland

6767 N. Basin Ave.

Portland, OR 97217-3992

[Regulates and protects the public, environment and economic interests on or about navigable waters.]

American Bureau of Shipping

16855 Northchase Dr.

Houston, TX 77060

[Private entity that regulates the shipping industry]

Association of Diving Contractors Inc.

2611 FM 1960 West, Ste. F204

Houston, TX 77068

[Private entity that regulates the commercial diving industry]

U.S. Federal Communications Commission

1919 M St., NW

Washington, D.C. 20554

[Issue vessel radio licenses and regulates use of same and related communications equipment]

MARPOL

4 Albert Embankment

London SE1 75R

United Kingdom

[International treaty regulating disposal of wastes generated by normal operation of vessels]

Oregon State Marine Board

435 Commercial St., NE

Salem, OR 97309-5065

[Regulates boating throughout Oregon and serves boaters through facility improvements, marine law enforcement, boating safety education and boat registration]

City of Portland

Bureau of Fire, Rescue and Emergency Services

Prevention Division

1300 SE Gideon St.

Portland, OR 97202-2419

[Regulates and enforces fire safety in and around the workplace]

City of Portland
Bureau of Planning
1120 SW Fifth Ave., Rm. 1002
Portland, OR 97204-1966
[Issues building permits and regulates land use planning within the city]

City of Portland
Bureau of Environmental Services
6543 N. Burlington Ave.
Portland, OR 97203-5452
[Conduct, analyze and regulate water pollution control laboratory results]

City of Portland
Water Bureau 1120 SW Fifth Ave.
Portland, OR 97204-1926
[Provides drinking water]

City of Portland
Portland Police Alarms
P.O. Box 1867
Portland, OR 97207
[Monitors alarm and security systems installed in structures on the Property]

State of Oregon
Dept. of Environmental Quality
Northwest Region
2020 SW Fourth Ave., Ste. 400
Portland, OR 97201-4987
[Dedicated to protecting human health and the environment and is responsible for administering delegated federal environmental laws and regulations regarding solid waste disposal, water quality and hazardous waste.]

Oregon Marine Board
436 N. Commercial St., NE
Salem, OR 97309-5065
[Registers boats and provides boating safety education and funding for recreational facilities associated with recreational boating such as launch ramps, sewage pump-out stations, restrooms and parking lots.]

Oregon Department of Fish and Wildlife
3406 Cherry Avenue, N.E.
Salem, OR 97303-4924
[Responsible for protecting Oregon's fish and wildlife and their habitat.]

State of Oregon
Dept. of Consumer & Business Affairs
Building Codes Division
Elevator Safety Program
P.O. Box 14470
Salem, OR 97309
[Licenses and regulates operation of elevators in buildings, among other things.]

Oregon State Fire Marshall,
Office of State Fire Marshall
CR2K Unit
4760 Portland Rd., NE
Salem, OR 97305-1760
[Regulates Fire Safety and performs Hazardous Substance Information Surveys]

State of Oregon
Construction Contractors Board
P.O. Box 14140
Salem, OR 97309-5052
[Regulates and license the construction contractors trade]

Oregon Dept. of Transportation
Motor Carrier Transportation Division
550 Capital St., NE
Salem, OR 97301-2530
[Regulates and licenses commercial vehicles and drivers.]

State of Oregon
Building Codes Division
Boiler & Pressure Vessel Program
1535 Edgewater NW
Salem, OR 97309-0404
[Regulates and issues permits for building and related construction]

State of Oregon
Division of State Police
4th Floor
255 Capitol Street, NE
Salem, OR 97310
[Responsible for enforcing fish and wildlife laws and responding to emergencies including fires and spill response.]

State of Washington
Master License Service
P.O. Box 9034
Olympia, WA 98507-9034

[Issues licenses to conduct business in the state]

U.S. Dept. of Labor
Occupational Safety and Health Administration
Office of Statistics
200 Constitution Ave., NW
Washington, D.C. 20210
[Regulates safety and health in the workplace.]

a. Respondent is not clear if "recipient" refers to recipient of a response by Respondent to the General Notice Letter ("GNL") or the recipient of the GNL. The recipient of the GNL was "J.H. Leitz, President, Marine Salvage Consortium, Inc." and Respondent did not respond to the December 2000 GNL.

51. See response 22.(1) and (2) to Request 22 regarding accidents concerning the Properties related to environmental concerns.

- a. See response 22.(1) to Request 22.
- b. No measures were undertaken to Respondent's knowledge.

Respondent does not know of any other occurrences related to health and safety and/or environmental concerns concerning the Properties, as this was clarified by EPA in its April 8, 2008, response to the PRP's to mean violations, etc. related to health and safety issues AND environmental concerns OR just environmental concerns.

52. None.

53. No.

54. No.

55. None.

56. See Respondent's response to Request 22.(2). National Response Center, c/o United States Coast Guard (CG-3RPF-2)-Rm. 2111-B, 2100 2nd St., SW, Washington D.C. 20593-0001; federal agency; federally organized; primary function is to serve as the point of contact for responding to all environmental discharges, etc., which it does through a number of interagency agreements.

57. None. Respondent does not interpret information provided to DEQ relating to sampling and source control of storm water to be responsive to this Request 57, however Respondent identified DEQ in its response to Request No. 50.

58. See responses to Requests 57. Other than 62.h., none.

60. Not to Respondent's knowledge.

61. Document 2, Sec. 7.4, "Notices" provides for notice, but does not require notice or reporting requirements.

62. See response 22.(1) and (2) to Request 22., which provides the information requested in subparts a. through e.

f. See responses 22.(1) and (2) to Request 22 and response to Request 51.b.

g. Respondent has no information on persons who may have information relating to these releases, other than personnel of the agencies reported to, Respondent and Pacific Coast Environmental, who is out of business.

h. U.S. EPA Emergency Response Notification System maintained by the National Response Center and Department of Homeland Security, United States Coast Guard.

i. See Document No. 48, listing three occasions in March of 1999, where an oil sheen was observed at the M-1 storm sewer outfall, PC I.D. Nos. 1154, 1121 and 1210. Phase I Data Evaluation Report and Phase 2 Work Planning for City of Portland Outfall M-1 Source Control Pilot Project prepared for the City of Portland by CH2MHILL, dated April 2003.

63. See response to Request 21.2. Oil-Water-Dirt Separator

- a. See Document No. 10.
- b. Installed in 1977.
- c. See response to subpart a.
- d. See response to subpart a.
- e. See response to subpart b.
- f. Not repaired.
- g. None known.

Floor Drain in Warehouse

- a. Floor drain located in phase 1 of warehouse.
- b. Installed in 1976
- c. Connected to sanitary sewer system.
- d. See Document No. 10.
- e. Installed in 1976.
- f. None known.

64. See response to Requests 8 regarding creation of the Property Nos. 1 and 2 by dredge spoils and 13.k. regarding excavation of soil. Respondent interprets this Request as requesting information regarding excavation of contaminated soil in instances other than those described in Requests 8 and 13.k. and therefore responds: No.

65. No.
66. No.
67. See response 22.(1) to Request 22.(1) regarding absorbent pads of tenant PCE on deck.
- a. Absorbent pads, most probably petroleum products.
 - b. March 8, 1995.
 - c. Quantity - "small sheen", adjacent to dock area.
 - d. Yes
 - e. No.
68. No known release of PCB 's. If "threatened release" includes the fact that an item, (e.g. PGE transformer or light ballast), may contain PCB's, see Document No. 7, pgs. 6 - 7; Document No. 21, page 5 ;and Document No. 23, pgs. 17-18.
69. See response to Request 68.

Section 7.0 Property Investigations

70. Respondent has no such information or documents concerning inspections, evaluations, safety audits, correspondence or any other documents associated with conditions or procedures at the Properties concerning insurance coverage matters or issues.

71. Property No. 1.

(1) Phase I Environmental Assessment dated July 17, 1992. See Document No. 7, the purpose of which was to identify the general environmental condition of the site and to evaluate the potential for the presence of contamination from hazardous material and/or waste, prior to potential sale of the Property. The "Conclusions" are contained on page 16 of the report and include that Fred Devine does not generate hazardous waste.

(2) Revised Phase I Environmental Assessment dated June 1, 1993, the purpose of which was to update the prior assessment. The "Conclusions" are contained on page 8 of the report and include the fact that the underground storage tanks had been removed and that neither Fred Devine, nor the tenant, Pacific Coast Environmental, generate hazardous waste.

(3) Geological and Seismic Evaluation dated July 19, 1995. See Document No. 22, the purpose of which was to assist the architect and engineer in designing foundations and preparing plans and specifications for construction of phase 3 of the warehouse. The "Summary of Results" is contained on page 2 of report.

(4) Preliminary Assessment dated June 28, 2001. See Document No. 23, the purpose of which was to identify recognized environmental conditions in connection with the site including the potential for possible site contamination from hazardous substances or petroleum products and to provide information to the Oregon Department of Environmental Quality, ("DEQ"), in regard to their goal of identifying potential sources of contamination to the Swan Island Lagoon and the Willamette River in respect to the Portland Harbor Superfund Listing, ("Site") and the Joint Source Control Strategy dated December 2005 between DEQ and EPA regarding upland source control measures relative to the Site. The "Conclusions" are set forth on page 42 of the report and include the fact that FDDS has and continues to conduct prudent site maintenance practices in respect to situations that may generate potential environmental concerns and the catch basins connected to the City of Portland storm sewer system appear to be clean and well maintained, containing absorbent material to trap contaminants.

(5) Sub-Surface Soil and Catch Basin Debris Sampling dated August 26, 2002. See Document No. 24, the purpose of which was to comply with sampling requests of DEQ following their review of the Preliminary Assessment, Document No. 23. The "Conclusions" are set forth on pages 12 through 14 of the report and include the following summary:

"In summary, because significant quantities of solids do not accumulate in the catch basins even over extended periods of time, and because FDDS periodically has the catch basins cleaned, and because much of the solid material in the basins appears to be organic debris, it does not appear that the six catch basins at the site generate water quality or sediment contamination problems for the lagoon or the Willamette River. It is EEM's firm belief that the six catch basins at the [sic] FDDS have not been a source of any of the contamination to the water and the sediments in the lagoon or the Willamette River. Nor is it likely, considering the type of work that occurs there and the very high level of awareness of environmental issues that the tenants have (Foss Environmental and FDDS), that the six catch basins at the FDDS site will ever be a source of contamination to the water and sediment in the lagoon and the river."

(6) Revised Sub-Surface Soil and Catch Basin Sampling dated March 19, 2003. See Document No. 25, the purpose of which was to address issues raised by DEQ subsequent to the report identified in (5) above. The "Conclusions" are set forth on pgs. 22 through 24 of the report and including EEM's opinion that activities at the Property are not likely to have impacted the lagoon and the Willamette River, and further concluding:

"Rather, as discussed in the June 2001 Preliminary Assessment report, the contaminated sediments found in the adjacent lagoon and Willamette River have their origins from several other obvious and significant sources, such as ship building and repair work on Swan Island since World War Two [sic], and the storm sewer out fall [sic] located immediately adjacent to the subject property."

The report reiterated that it does not appear that the six catch basins on the Property generate water quality or sediment contamination problems for the lagoon or the Willamette River.

(7) Storm Water Source Control Evaluation Work Plan dated April 16, 2007. See Document No. 26, the purpose of which was to examine existing data, propose applicable catch basin sediment and storm water sampling and analysis protocols and present a summary of ongoing source control measures and best management practices pursuant to the Letter Agreement between Respondent and DEQ dated December 5, 2006. A main objective is to obtain sufficient data to allow DEQ to prepare a Source Control Memorandum for review by EPA. This investigation has yet to be completed so there is no result to be reported at this time.

(8) Storm Water Source Control Evaluation Work Plan dated June 26, 2007. See Document No. 27. See response to item (7) above regarding the purpose and result of this investigation.

(9) Technical Memorandum 2007 Storm Water Sampling dated January 14, 2008. See Document No. 28, the purpose of which was in accordance with the Storm Water Source Control Evaluation Work Plan dated June 26, 2007, approved by DEQ on October 11, 2007. The results of the investigation are summarized on pgs. 4 and 5 of the report and in the following tables, figures and attachments thereto.

See also Document No. 51.

Document No. 52 is a privilege log setting forth documents Respondent identifies as responsive to this request but protected from disclosure by the attorney work product doctrine and/or by the attorney-client privilege. Respondent has other protected documents that have NOT been included on the privilege log due to cost considerations and limited time. The protected documents omitted from the log were not generated or reviewed by any consultant acting for Respondent, or by any third party, and are attorney work product or attorney-client privileged materials to which no other party could have any legitimate claim or interest. No waiver of privilege or work product protection is intended or may be implied by the omission of these documents from the privilege log, or by inclusion of other documents in the privilege log.

Property No. 2. None known, other than what may have been conducted by the Lower Willamette Group with respect to the Remedial Investigation/Feasibility Study conducted for EPA relating to the Portland Harbor Superfund site. Respondent refers EPA to those studies in the event any such investigation was undertaken or conducted on or about Property No. 2.

72. **Property No. 1**

See response 22.(2) to Request No. 22. Respondent is not certain the storm water controls and best management practices it employs with respect to storm water are either a "response" or "remedial action" as those terms are defined in CERCLA, 42 U.S.C. 9601 (24) and (25), but notes these practices. See Document No. 26, Sec. 3.4, pgs. 8-10 and Document No. 27, Sec. 3.4, pgs. 8 through 11.

Property No. 2

None known.

73. None other than pursuant to the Storm Water Source Control Plans, Document Nos. 26 and 27.

Section 8.0 Corporate Information

74. For each of the persons listed, the address will be provided upon Request by EPA.

a. Corporation

b. J.H. Leitz, President/Director
6211 N. Ensign
Portland, OR 97217
(503) 283-5285
[Current]

Tim Beaver, Vice President/Director

[Current]

James L. Dunlap, Secretary/Director

[Current]

John A. Witte, Director

[Former]

Thom Davis, Director
[Former]

Richard Campbell, Secretary/Treasurer

[Former]

c. None.

- d. None.
- e. Not applicable.

75. The Marine Salvage Consortium, dba Fred Devine Diving & Salvage Co.

- a. Continues to exist.
- b. Registered Agent: J.H. Leitz
6211 N. Ensign
Portland, OR 97217
(503) 283-5285

See response to Request 74 for officers.

Operations Mgmt.: Residence addresses and telephone numbers
provided upon Request by EPA

Marvin Smith
6211 N. Ensign
Portland, OR 97217
(503) 283-5285

Guy Vetere

Kerry Walsh

c. Fred Devine Diving & Salvage Co. is a registered dba with the State of Oregon at the same address and telephone number.

Donjon/Devine informal joint venture existed from approximately June, 1999, and ceased to operate in October of 1999. Formed to pursue salvage of the "New Carissa", a stranded vessel off the coast of Coos Bay, Oregon.

76. See Document No. 49 and No.50.

a. BBD&R, Inc. Respondent has no information on the dissolution of this company other than what is available on the State of Oregon, Secretary of State's website. Respondent is not aware of any "sale" or "purchase" of assets between these two entities. Note Respondent's response to Request No. 10 regarding the name change.

77. Respondent does not interpret "owned or controlled by" to include shareholders of Respondent who may be corporate entities. Respondent was not at any time a subsidiary of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity under this interpretation.

f.i. Respondent interprets "any information" to relate to financial information. See Document No. 53 for which Respondent asserts a claim of confidentiality.

ii. BBD&R was dissolved on February 4, 1994. Oregon Secretary of State, Corporation Division website, business name search records.

iii. Fred Devine Diving & Salvage Co. is an assumed business name of the Respondent and has no separate financial information.

iv. See responses to Request No. 10 and subpart b. above.

78. Not applicable.

Section 9.0 Compliance With This Request

79. Respondent reviewed the sources, (including documents, persons, agencies, etc.), identified, referenced and included in this response.

a. In addition to the sources identified in this response, Guy Sternal, Eisenhower & Carlson, PLLC, attorney at law, consulted May 29, 2008 to present and Marvin L. Smith, Operations Manager for Respondent, consulted from approximately May 1, 2008 to present.

b. Document sources are housed at 6211 N. Ensign, Portland, Oregon 97217. Mr. Sternal's business address is Wells Fargo Plaza, Suite 1200, 1201 Pacific Avenue, Tacoma WA 98402. Mr. Smith's business address is that of Respondent's. Respondent contacted staff persons at the City of Portland, Bureau of Environmental Services, Bureau of Development, Portland Water Bureau and the U.S. Army Corps. of Engineers in the context of public records and FOIA requests and Northwest Natural and Portland General Electric with respect to the location of utility lines. Respondent does not interpret this as "consulted", but rather "contacted". If EPA seeks the names and telephone numbers of these individuals, Respondent will provide them to the extent it has them. Respondent does not know the residence addresses of the individuals contacted at the agencies listed.

c. See response to subpart a. above.

80. Present employees Marvin L. Smith and Ronald James. Former employees Guy Vetere and Kerry Walsh. Current and last know address or phone number provided to EPA upon request.

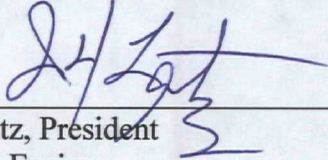
81. Respondent is not aware of the unavailability of any document solicited in this information request.

82. Respondent is not aware of any records that relate to "all of the questions in this request". Respondent has either included or identified the records available to it that relate to or are responsive to the questions as requested in the instructions to this information request.

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent and that the foregoing is complete, true and correct.

Executed on June 28, 2008.

A handwritten signature in blue ink, appearing to read "J.H. Leitz", is written over a horizontal line.

J.H. Leitz, President
6211 N. Ensign
Portland, OR 97217